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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re N.M. et al., Persons Coming Under the
Juvenile Court Law.

B239596
(Los Angeles County Super. Ct.
No. CK90159)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent,

v.

ANDREA M.,

Defendant and Appellant.

APPEAL from a judgment of the Superior Court of Los Angeles County, Donna Levin, Juvenile Court Referee. Affirmed.

Lauren K. Johnson, under appointment by the Court of Appeal, for Defendant and Appellant.

John F. Krattli, Acting County Counsel, James M. Owens, Assistant County Counsel, and Melinda S. White-Svec, Deputy County Counsel, for Plaintiff and Respondent.

Andrea M. (mother) appeals from the judgment of January 27, 2012,¹ declaring her four children dependents of the court under Welfare and Institutions Code section 360, subdivision (d).² Her sole contention is that the dependency court failed to comply with section 361.3.³ As she did not object on this ground in the dependency court, she has forfeited the contention. Accordingly, we affirm the judgment.

STATEMENT OF FACTS AND PROCEDURE

This family consisted of mother and her four children, who ranged in age from one year old to seven years old.⁴ Mother was unable to provide proper care and supervision for them because she suffered from an addiction to prescription opiates. A section 300 petition was filed by the Department of Children and Family Services (Department), and the children were detained on October 12, 2011.

“Michael L.,” who mother stated was a maternal uncle, was present at the arraignment and detention hearing on October 24, 2011. The children’s counsel stated he requested placement, although his home was probably too small to meet the requirements, and asked that he be live-scanned that day. Mother did not ask the dependency court to consider him for placement. The court ordered the Department to

¹ The notice of appeal states the appeal is taken from the jurisdictional and dispositional findings of January 26, 2012. Pursuant to California Rules of Court, rule 8.100(a)(2) [“The notice of appeal must be liberally construed”], we construe the notice of appeal in this case to be from the orders made on January 27.

² All further statutory references are to the Welfare and Institutions Code, unless otherwise indicated.

³ Section 361.3 provides in pertinent part: “(a) In any case in which a child is removed from the physical custody of his or her parents pursuant to Section 361, preferential consideration shall be given to a request by a relative of the child for placement of the child with the relative.”

⁴ The children are N.M., G.N., P.N., and S.N.

assess maternal grandmother for placement and maternal uncle for placement, visitation, and as a visitation monitor.

Maternal grandmother died suddenly. The dependency investigator reported that she directed mother to provide information about maternal uncle so he could be assessed for placement and that she would forward such information to the dependency court upon receipt. No information about maternal uncle is contained in any of the subsequent court reports.

On January 27, 2012, the children were declared dependents of the court, based upon sustained allegations under section 300, subdivision (b) that the children were at substantial risk of serious physical harm or illness as a result of parent's inability to adequately supervise or protect and inability to provide regular care due to substance abuse. Custody was taken from mother and given to the Department for suitable placement. Mother was granted reunification services and visitation. The Department was ordered to make best efforts to place the children together.

DISCUSSION

Mother contends the dependency court abused its discretion by failing to consider maternal uncle for placement, as required by section 361.3. As mother did not raise the issue in the dependency court,⁵ we conclude she forfeited the contention.

“A parent’s failure to raise an issue in the juvenile court prevents him or her from presenting the issue to the appellate court.” (*In re Elijah V.* (2005) 127 Cal.App.4th 576, 582; accord, *In re Sheena K.* (2007) 40 Cal.4th 875, 880-881 [even constitutional rights may be forfeited ““by the failure to make timely assertion of the right before a tribunal having jurisdiction to determine it.”” [Citations.]”]; *In re S.B.* (2004) 32 Cal.4th 1287, 1293 [“a reviewing court ordinarily will not consider a challenge to a ruling if an

⁵ The only dispositional issues mother raised were a request for a home-of-parent order and a request her visits be unmonitored.

objection could have been but was not made in the trial court”]; *In re Dakota H.* (2005) 132 Cal.App.4th 212, 221 [a “party forfeits the right to claim error as grounds for reversal on appeal when he or she fails to raise the objection in the trial court”].)

In dependency cases, discretion to consider forfeited claims “must be exercised with special care[.]” (*In re S.B.*, *supra*, 32 Cal.4th at p. 1293.) “[T]he appellate court’s discretion to excuse forfeiture should be exercised rarely and only in cases presenting an important legal issue.” (*Ibid.* [the forfeited issue involved interpretation of a statute and had divided the courts of appeal]; *In re M.R.* (2005) 132 Cal.App.4th 269, 272 [the forfeiture was excused in order to clarify a recent statutory amendment].) This is not the rare case involving the type of legal issue that compels overlooking the forfeiture.

DISPOSITION

The judgment is affirmed.

KRIEGLER, J.

We concur:

TURNER, P. J.

ARMSTRONG, J.